

The 19th November, 1986

No. 9/9/86-6Lab/9374.—In pursuance of the provisions of section 17 of the Industrial Disputes Act, 1947 (Central Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of Presiding Officer, Industrial Tribunal Faridabad, in respect of the dispute between the workman and the management of M/s. Driplex Water Engineering (International) Pvt. Ltd., Near F.C.I. Godown, N.I.T., Faridabad.

BEFORE SHRI S. B. AHUJA, PRESIDING OFFICER, INDUSTRIAL TRIBUNAL,
HARYANA, FARIDABAD

Reference No. 67/1984

between

SHRI R. B. GUPTA, WORKMAN C/O SHRI AMAR SINGH SHARMA, LABOUR UNION
OFFICE (INTUC) OPPOSITE GOVT. GIRLS SCHOOL NO. 1, N.I.T. FARIDABAD
AND THE MANAGEMENT OF M/S DRIPLEX WATER ENGINEERING
(INTERNATIONAL) PVT. LTD., NEAR F.C.I. GODOWN, N.I.T.,
FARIDABAD

Present :

Shri Amar Singh Sharma, for the workman.

Shri G. S. Chaudhry, for the Management.

AWARD.

In exercise of the powers conferred by clause (d) of sub-section (1) of section 10 of the Industrial Disputes Act, 1947 (hereinafter referred to as the Act) the Governor of Haryana referred the following dispute between Shri R. B. Gupta Workman and the Management of M/s Driplex Water Engineering (International) Pvt. Ltd., near F.C.I. Godown, N.I.T., Faridabad, to this Tribunal for adjudication —

Whether the termination of service of Shri R.B. Gupta was justified and in order? If not, to what relief is he entitled?

2. After receipt of order of reference, the notices of the same were issued to the parties. The parties appeared. The case of the petitioner is that he was employed with the respondent as Maintenance Fitter on 12th July, 1981 and that his services were illegally terminated on 19th March, 1983. His plea was that undated resignation letter was obtained from him at the time of employment and the said resignation letter was utilized to throw him out of the job by the Management as he indulged in trade union activities. He alleged that his termination of services was in utter disregard of provisions of the Act.

3. In the reply filed by the respondent-management preliminary objection was taken that reference is bad in law and not maintainable. On merits it was alleged that the petitioner had resigned from the job of his own accord and accepted a sum of Rs. 1963 60 paise in full and final settlement of his entire claim and as such nothing survives for adjudication.

4. The petitioner reiterated his stand in the rejoinder. He denied having received dues in full and final settlement of his claim.

5. On the pleading of the parties, the following issues were settled by Shri R. N. Batra, the then Presiding Officer:—

- (1) Whether the claimant has resigned from the job of his own accord and has accepted payment in full and final settlement of his claim as pleaded? OPM
- (2) Whether the termination of service of Shri R. B. Gupta was justified and in order? If not, to what relief is he entitled?

6. It may be mentioned that initially in this case *ex parte* award was passed in favour of the workman by my predecessor on 22nd May, 1985. Later on that award was set aside by the order passed by my predecessor on 6th January, 1986.

7. I have heard the learned Authorised Representatives of both the parties.

8. At the out-set on the basis of law laid down in case of Sitaram Vishnu Shirodkar and the Administrator, Government of Goa and others, 1985-1-LLJ page 480, M/s India Tourism Development Corporation, New Delhi v. Delhi Administration Delhi and others, 1982-Lab.I.C.-1309, (Full Bench), Pottery Mazdoor Panchayat v. The Perfect Pottery Co. Ltd. and other, 1979-Lab. I.C. 827, Firestone

Tyre and Rubber Company of India Private Limited Vs. The Workmen Employed represented of Firestone Tyre Employees Union 1981(2) S.L.R. page 714, the learned Authorised Representative of the Management contended that the present reference is not maintainable because the controversy which has cropped up before the Court is absolutely alien to the terms of the reference and Labour Court or Industrial Tribunal cannot travel beyond the terms of reference. He pointed out that the petitioner has submitted resignation Ex.M-1 and has received his final dues and executed the receipt Ex. M-3. His submission was also to the effect that the plea of the petitioner that undated resignation letter was procured from him is an after thought as no such plea was taken in his demand notice.

9. Undisputedly the terms of reference are confined to justifiability or otherwise of the alleged order of termination of service. The plea of the respondent throughout is that the petitioner resigned from his job of his own accord. Even this plea was taken before the Labour-cum-Conciliation Officer and the proceedings of the Labour-cum-Conciliation Officer are Ex.M-12 on the record. Since the terms of reference are confined to justifiability or otherwise of the alleged order of termination of service, this Tribunal is not bound to go into the factum as to whether resignation allegedly submitted by the petitioner is forged one because the Labour Court or Industrial Tribunal cannot travel beyond the terms of reference. It has been held in various pronouncement i.e. Sitaram Vishnu Shirodkar and the Administrator, Government of Goa, 1985-1-L.L.J page 480, M/S India Tourism Development Corporation, New Delhi 11, Delhi Administration Delhi and Others, 1982-Lab. IC. 1309(Full Bench), Pottery Mezdooor Panchayat V. The Perfect Pottery Co. Ltd. and other, 1979-Lab.I.C. 827, Firestone Tyre and Rubber Company of India Private Limited Vs. The workmen Employed represented of Firestone Tyre Employees Union, 1981(2) S.L.R. page 714 (Supra). Thus there is no difficulty in holding the present reference is bad in law.

10. In view of the aforesaid position, it is not necessary to go into other questions involved in this case. The petitioner shall be at liberty to move the Govt. to make a fresh proper reference.

11. In the light of foregoing discussion, the present reference is dismissed being not maintainable. The award is passed accordingly.

Dated the 23rd September, 1986.

S. B. AHUJA,
Presiding Officer,
Industrial Tribunal Haryana, Faridabad.

Endst No. 636. dated the 30th September, 1986

Forwarded (four copies) to the Financial Commissioner and Secretary to Government, Haryana, Labour and Employment Departments, Chandigarh, as required under section 15 of the Industrial Disputes Act, 1947.

S. B. AHUJA,
Presiding Officer,
Industrial Tribunal Haryana, Faridabad.

The 24th November, 1986

No. 9/6/86-6Lab/9311.—In pursuance of the provisions of section 17 of the Industrial Disputes Act, 1947 (Central Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of Presiding Officer, Labour Court, Ambala in respect of the dispute between the workman and the management of M/s Shree Hanuman Metal Industries, Jagadhri :—

IN THE COURT OF SHRI V. P. CHAUDHARY, PRESIDING OFFICER, LABOUR COURT,
AMBALA

Reference No. 415 of 1985

(Old No. 25 of 1983)

between

SHRI RAJ KUMAR C/O SHRI BALBIR SINGH H. NO. 135-A MODEL TOWN, YAMUNANAGAR
AND THE MANAGEMENT OF THE M/S SHREE HANUMAN METAL INDUSTRIES
JAGADHARI

Present:—

Shri Surinder Sharma for the workman.

Shri S. Bindra for the respondent.

AWARD

The Hon'ble Governor of Haryana in the exercise of powers conferred,—*vide* clause (C) of sub-section (i) of section 10 of the Industrial Disputes Act, 1947 referred dispute between Shri Raj Kumar and Messrs Shree Hanuman Metal Industries, Jagadhri to Labour Court, Faridabad. The terms of the reference are as under—

“Whether termination of services of Shri Raj Kumar was justified and in order. If not to what relief is he entitled?”

On constitution of Labour Court at Ambala in April, 1984, to this reference was received by transfer.

Workman through his demand notice alleged that he had been working in the service of respondent management for the last more than six years. His services were terminated on 20th June, 1982 in violation of section 25 (F) of Industrial Disputes Act, 1947. He has prayed for his reinstatement with continuity in service and with full back wages.

Respondent-management was served. It contested the reference refuting the allegations of the workman.

On the pleadings of the parties the following issues were framed :

Issues :

I. As per reference,

Thereafter Shri S. Bindra withdrew himself on the plea that he had no instruction to appear on behalf of respondent-management. Thereafter fresh notices were issued which were refused by the respondent. *Ex parte* proceedings were taken up. Workman examined himself in *ex parte* evidence. He deposed that he served the respondent-management for six years. His services were terminated without issuing any notice and without making payment of any retrenchment compensation.

I have heard Shri Surinder Sharma and have perused the *ex parte* evidence led by the applicant and of the considered view that applicant served the respondent management. His services were terminated without any notice without making payment of any pay, in lieu of notice period. No retrenchment compensation was paid to the workman. Respondent management firstly, contested the reference, thereafter its Authorised Representative withdrew himself from the contest.

Fresh notices were issued but those were not accepted by the respondent-management. So *ex parte* proceedings were taken up. In these circumstances I hold that applicant remained in the employment of respondent management, more than 240 days. His services were terminated in utter violation of section 25 (F) of Industrial Disputes Act, 1947. So workman is entitled to reinstatement with continuity in service and with full back wages. So I pass award regarding the dispute between the parties accordingly.

Dated. the 4th September, 1986.

V. P. CHAUDHARY,

Presiding Officer,

Labour Court, Ambala.

Endorsement No. 2285, dated the 8th September, 1986.

Forwarded (four copies), to the Financial Commissioner and Secretary to Government, Haryana, Labour and Employment Departments, Chandigarh, as required under section 15 of the Industrial Disputes Act, 1947.

V. P. CHAUDHARY,

Presiding Officer,

Labour Court, Ambala.